

be available under the SGAT. The SGAT cannot be approved based on predictions about what Pacific may be able to offer in the future. This is especially true with regard to all aspects of Ordering and Provisioning. See SGAT, Attachment 11, Appendix A, Section 2.

In particular, many of the pre-ordering and ordering systems are only interim in nature and are not fully operational and thus do not meet the requirements of the Act. Section 252 requires that the terms of the SGAT be generally offered at the time application is made for approval of the SGAT. This requirement has not been met by Pacific's SGAT.

Attachment 11, Section 2.4 of the SGAT states that Pacific "shall provide an electronic interface twenty-four (24) hours a day, seven days a week for all order flows at parity with that PACIFIC provides to itself or affiliates." Such a full-time, 24 hour/7 days-a-week interface, however, is not currently available and is confirmed by the SGAT's list of systems and the times they are available.¹⁰ Thus, Pacific's listing of the CESAR/CLEO, PREMIS, BOSS, or SORD systems is illusory and blatantly discriminatory because these systems are not available to CLCs at the same times they are available to Pacific. See SGAT, Attachment 11, Sections 2.4.1 et seq. For

¹⁰ CESAR/CLEO is available Monday through Friday, 7:00 a.m. to 11:00 p.m., and Saturday 7:00 a.m. through 5:00 p.m.

PREMIS is available Monday through Saturday, 6:00 a.m. through 11:00 p.m.

BOSS is available Monday through Saturday, 6:00 a.m. through 11:00 p.m.

SORD is available Monday through Friday, 6:00 a.m. through 11:00 p.m., and Saturday 6:00 a.m. through 7:00 p.m.

example, no system is available to CLCs on any Sunday at anytime. *Id.* Thus, on its very face, Pacific's SGAT fails to state accurately the status of OSS availability in California today. Under any analysis, the SGAT does not meet statutory requirements.

OSS must be provided to new entrants "at least equal in quality" to that enjoyed by Pacific or its subsidiaries and affiliates. TA96 § 251(c)(2)(C). Access to effective (i.e., at parity) OSS functionality is critical to the ability both to resell service and to provide service using a combination of CLC and unbundled ILEC facilities. The First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, (released August 8, 1996) (hereinafter "*FCC Order*") states "in order to comply fully with Section 251(c)(3), an incumbent LEC must provide, upon request, nondiscriminatory access to operations support systems functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing of unbundled network elements under section 251(c)(3) and . . . resold services under section 251(c)(4)." *FCC Order* ¶ 525.

If the OSS interfaces promised in the SGAT are not operationally ready with sufficient capacity, new entrants relying on the SGAT to enter the California market will suffer irreparable injury should they attempt to provide service which requires use of the interfaces. They will suffer delays, complications, high execution costs, and reputational damage. Smaller

entrants will be particularly harmed by any such complications. More importantly, consumers will experience service interruption, and local competition will simply not emerge.

Indeed, some of the systems Pacific lists as available have in fact been denied to CLCs. For example, despite repeated requests, members of this Coalition have been unable to get access to SORD through an interface, the main system which drives all of Pacific's databases. Thus, the members of the Coalition have no true electronic interface to access Pacific's databases or systems. Pacific and its affiliates, on the other hand, can, at any time, access SORD and all of its databases and systems in real time. The denial of access to SORD is solid evidence of the glaring lack of parity between Pacific and CLCs. Pacific's listing of SORD as being available to the CLCs is misleading with no substance behind it.

Moreover, the CLEO system offered by Pacific is just an initial, interim solution and is not a true electronic interface of the type required by the Act and Rules. See SGAT, Attachment 11, Appendix A, Section 1.2. In fact, the SGAT specifically acknowledges that CLCs are to use CLEO "and various manual methods..." *Id.*

The FCC has expressly recognized that "an incumbent that provisions network resources electronically does not discharge its obligation under section 251(c)(3) by offering competing providers access that involves human intervention . . ." *FCC Order* at ¶ 523. At best, Pacific offers

manual methods along with an interim system but these cannot meet CLC capacity at this juncture. Pacific's SGAT offering thus does not satisfy the requirements of the Act, and certainly cannot be used to meet the criteria of Section 251.¹¹

The majority of non-recurring cost estimates in the SGAT are estimates for permanent OSS. OSS includes not only the interface between the ILEC and its CLC competitor but also the systems involved in pre-ordering, ordering, provisioning (including installation), maintenance and repair, and billing functions.¹² The FCC has concluded that:

"...incumbent LECs must provide carriers purchasing access to unbundled network elements with the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of the incumbent LEC's operations support systems. Moreover, the incumbent must provide access to these functions under the same terms and

¹¹ Any SGAT which is approved based on an interim OSS system like CLEO cannot serve as the basis of any filing under Section 271(c)(1)(B) ["Track B"]. In all events, Pacific may not pursue Section 271 relief through Track B, because CLCs have requested and arbitrated interconnection agreements with Pacific. Even if this were not the case, a Track B filing based on the SGAT filed by Pacific would be inappropriate here because mere paper offerings do not signal the ability and willingness on Pacific's part to actually provide interconnection and access consistent with the competitive checklist of Section 271(c)(2).

¹² FCC Order ¶¶ 516-528.

conditions that they provide these services to themselves or their customers."¹³

The FCC has also concluded that "... access to such operations support systems is critical to affording new entrants a meaningful opportunity to compete with incumbent LECs."¹⁴ Thus, legitimate issues for the OSS phase of this and the local exchange competition proceedings include how the ILEC provides OSS to itself to serve its retail customers, and whether each operations support system is provided to the CLCs in a non-discriminatory manner.

Even if Pacific could deliver fully electronic interfaces which actually worked in a live environment, there is no evidence before the Commission which would allow it to conclude that the interfaces to be provided would be nondiscriminatory as required under the Act and FCC Rules. Further, the Commission must still review the status and standards of OSS in California. Still to be addressed and examined by the Commission are the designs of the electronic interface between the CLC and Pacific and Pacific's internal operations support systems. Also, the Commission must, in the future, consider whether modifications of Pacific's proposed OSS are required to ensure that access to those systems is available to the CLCs in the same

¹³ *Id.* ¶ 316 (footnotes excluded)

¹⁴ *Id.* ¶ 4

manner that it is available to Pacific. So, at best, the SGAT is premature, but more likely deficient since it does not currently meet the requirements of Sections 252(d), 251, and the regulations thereunder.

2. Interim Prices Snd Interim OSS Do Not Provide Parity To CLCs.

The SGAT is premature because numerous permanent pricing issues regarding the wholesale discount and unbundled network elements have not yet been determined in California. Thus, the SGAT, on its face, does not meet the pricing requirements of Sections 251 and 252(d) of the Act and the implementing regulations.¹⁵ It is significant to note that the SGAT's listed prices are all interim prices.

The interim prices currently charged by Pacific are not all cost based. These prices will change when final, permanent prices are determined by this Commission in the OANAD proceeding which seeks to determine the actual cost of the elements making up the permanent systems Pacific will eventually offer to the CLCs. Since the price of the elements depends on the permanent systems Pacific will select, they are undetermined at this time. Further, since the elements are components of a yet-to-be-assembled system, the price of the elements is interlinked with Pacific's future operating systems. Thus, permanent OSS choices will directly impact the final prices charged to CLCs.

¹⁵ Obviously, if these requirements are not met, the SGAT could never serve as a basis for relief under Section 271(c)(1)(B) ["Track B"].

Because of the relationship between OSS and the activities underlying the cost estimates for non-recurring costs, it is not possible to thoroughly review any non-recurring cost estimate without knowing in some detail how the interface to the OSS will function. This Commission's ALJ Ruling of December 18, 1996 in the OANAD proceeding recognized this potential difficulty in footnote 19 of that decision, which allowed for modification of the non-recurring costs estimates after the OSS interface is further defined. Final approval of non-recurring costs would likely be premature until the uncertainty over OSS is resolved.

A review of Pacific's cost studies filed with this Commission on January 13, 1997 reveals that Pacific is not providing the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing to the CLCs using the same systems it employs to provide such functions to itself.¹⁶ Moreover, Pacific has not provided further definition of the electronic interface to OSS that it intends to use for CLCs. This makes review of non-recurring costs exceedingly difficult because the majority of the non-recurring cost estimates involve one or more of Pacific's OSS, and the OSS interface Pacific eventually selects as the permanent electronic interface will necessarily affect each of the OSS.

¹⁶ See generally Pacific's Cost Studies filed January 13, 1997, in OANAD Phase II, R.93-04-002/I.93-04-002.

Since the majority of the non-recurring cost estimates involve one or more of the OSS, and the OSS interface Pacific eventually selects will necessarily affect cost, development of non-recurring costs based on current information should be subject to supplementation or amendment as the nature of OSS that Pacific provides becomes clearer or is modified.

Cost impacts of OSS can be significant. For example, establishing OSS that employ the same systems Pacific uses for its retail operations should produce dramatic cost reductions to Pacific's non-recurring cost estimates. Non-recurring costs that Pacific calculates for ordering and installing new service for a CLC request of an unbundled loop and port for a residential customer, for example, are more than six times higher than those Pacific has calculated for ordering and installing a residential access line for its own retail customer.¹⁷ The wide disparity in cost is caused by Pacific's development of pre-ordering, ordering and provisioning processes which incorporate the use of work groups and OSS that are different from those which Pacific uses to serve its own retail customers.¹⁸

¹⁷ OANAD Phase II cost studies, Vol. 5 of 11, access line flat residence, workpaper p. 1; OANAD Phase II cost studies, Vol. 7 of 11, basic link "new" initial, workpaper p. 1.

¹⁸ The Commission should also note that the non-recurring prices that Pacific has agreed to in several interconnection agreements with its competitors other than AT&T and MCI are significantly below the costs Pacific has presented in the OANAD proceeding. Pacific Advice Letter 17879 (MFS); Pacific Advice Letter 18410 (ICG); and Pacific Advice Letter 18458 (Brooks Fiber).

While Pacific's non-recurring cost studies provide a dramatic example of the anti-competitive cost structure that results from improper and discriminatory access to OSS, CLC recurring costs and service standards can also suffer from lack of parity with Pacific's retail operations because of inefficient access to downstream OSS. Underlying OSS that is available for use by Pacific's employees reduce costs and improve service for Pacific's retail customers and should be available to CLCs in exactly the same manner. To do otherwise would unnecessarily increase costs for the CLCs and degrade service for the CLCs' customers, thus, constituting a barrier to competition.

Because Pacific's non-recurring cost estimates are intrinsically dependent upon the systems that make up OSS, and should decrease as a result of the establishment of non-discriminatory access to Pacific's OSS, the non-recurring cost studies which are now the focus of the OANAD proceeding must be revised and completed before the SGAT can be intelligible, let alone serve as a reliable statement of generally available terms, conditions, and prices.

3. Avoided Cost Discount For Resale Services.¹⁹

In order to facilitate resale of an incumbent telephone company's services, Sections 251(c)(4)(A) and 252(d)(3) of the Act mandate that state commissions determine a "wholesale" rate for incumbent local telephone companies, and set this wholesale rate "on the basis of retail rates charged to subscribers for the telecommunications services requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." The Commission was therefore required to set a wholesale rate for Pacific consistent with the Act's "avoided cost" standard.

The wholesale rates adopted for Pacific and contained in the SGAT were established in Decision ("D.") 96-03-020, a Commission Order issued on March 13, 1996, which established a 17% wholesale discount for Pacific.²⁰ The 17% wholesale discount cannot be found to have been derived pursuant to the Section 252(d)(3) mandate that wholesale discounts be based on avoided costs or on the specific methodology approved in the FCC Order. The 17% wholesale discount is inaccurate for Pacific in California because it is based on interim conditions (and the appropriate

¹⁹ The following Coalition members do not join in this section (V.A.3.) of these Comments: CCTA, Sprint Communications, L.P., Inc., and ICG Telecom Group, Inc..

²⁰ This Order established a 10% residential discount rate.

avoided cost studies were not performed) and thereby deters entry in California's local exchange resale market.²¹ CLCs who resell Pacific services will be injured by the application of the improperly calculated 17% wholesale discount because based on Pacific's avoidable costs when selling retail services at wholesale to CLCs, it will be uneconomic for CLCs to offer local telephone service on a resale basis, competition will accordingly be impeded, and consumers will not benefit from the choice of local telephone providers contemplated by the Act.

In sum, the rates set by the Commission in D.96-03-020 are temporary rates which were not set consistent with the avoided cost methodology required by the Act. Because wholesale rates consistent with requirements of the Act will not be set until the conclusion of the OANAD proceeding, any SGAT filed by Pacific prior to that time is premature. Accordingly, the Commission must disapprove Pacific's SGAT because the wholesale discount set forth therein does not comply with Section 252(d)(3) and 251(c)(4).

Until the Commission establishes permanent wholesale discounts that comply with the avoided cost statutory standards consistent with the requirements of the Act, the requirements of Sections 252, 251 and the

²¹ It should be noted that the 17% wholesale discount is among the lowest wholesale discounts established by any Regional Bell Operating Company ("RBOC").

applicable regulations thereunder have not been met by Pacific's SGAT, as written.

The inadequacies of Pacific's wholesale rate is even more extreme of customer-owned pay telephone ("COPT") service, because of Pacific's success in persuading the Commission, in D.96-03-020, to deny any wholesale discount for COPT service. While the Commission has indicated its willingness to reconsider this hastily adopted result (See Ruling of ALJ Pulsifer in R.95-04-043, issued March 28, 1996, at 4), the FCC has concluded that wholesale discounts should be applied to payphone access line services. *FCC Order* ¶ 876. The SGAT makes no provision for incorporating such discount into its Services for Resale tariff, and so is legally insufficient.

B. Discrimination In Resale.

1. No Parity In Resale OSS.

Pursuant to the *FCC Order*, Pacific must make OSS able to support resale efforts to the CLCs. See *FCC Order* ¶¶ 518, 907. Resale is of "strategic importance . . . to the development of competition," and it "will be an important entry strategy for many new entrants, especially in the short term while they are building their own facilities." *FCC Order* ¶ 907. Accordingly, the Act requires Pacific to provide telecommunications services "for resale in accordance with the requirements of sections 251(c)(4) and 252 (d)(3)." *TA96* § 271(c)(2)(B)(xiv). Section 251(c)(4) in turn provides

that Pacific may not "impose unreasonable or discriminatory conditions or limitations" on the resale of telecommunications services. *TA96* § 251(c)(4)(B). Section 251(c)(3) requires the provision of nondiscriminatory access to unbundled network elements. The FCC recognizes that the availability of nondiscriminatory access to unbundled network elements will be the springboard to the growth of true facilities-based competition. *FCC Order* ¶ 232.

Resale is of no use if there is no access to reliable operations support systems available to CLCs. As the FCC stated, the control of an ILEC like Pacific over OSS "represent[s] a significant potential barrier to entry." *Id.* at ¶ 516. Nondiscriminatory access to OSS is required by the Act and its implementing rules and "is critical to the ability of other carriers to compete with incumbent LECs using unbundled network elements or resold services." *FCC Order* ¶ 518. Because "[i]t is these systems that determine, in large part, the speed and efficiency with which incumbent LECs can market, order, provision, and maintain telecommunications services and facilities," access to OSS is "*essential to promote viable competitive entry.*" *FCC Order* ¶ 516 (emphasis added); *see also* ¶¶ 518, 522.

Pacific, however, is not providing OSS parity to any new local market entrant because of the lack of access to SORD and the need for manual intervention in the pre-ordering, ordering, provisioning, maintenance, and repair processes, among other deficiencies. Moreover, the inferior OSS

Pacific does provide relegates CLCs, as a group, to only a marginal presence in the local exchange market and currently forecloses all possibility that CLCs can use resale as an effective entry vehicle. The recent experience of the first new resale entrants with respect to Pacific's processes for supporting pre-ordering, ordering, provisioning, maintenance, and repair of resale services does not bode well for the support required for the more complicated provisioning of unbundled elements.

2. No Parity In Electronic OSS Functions.

2.1 Unavailability of CSRs.

In Attachment 11, Section 5.2 of the SGAT, Pacific states that when a CLC orders a Local Switching Network Element ("LSNE"), the "CLC's representatives will have real-time access to PACIFIC customer information systems" which allow them to obtain customer service records (discussed below) and other information crucial to satisfying an ordering customer. SGAT, Attachment 11, Sections 5.2.1 et seq. While such wording looks nice on paper, Pacific's performance to date proves that Pacific will be unable to deliver on these terms. Real-time access is simply not available to CLCs because Pacific refuses to allow access to SORD via a fully electronic interface. Thus, Section 5.2 of Attachment 11 is just another example of how Pacific cannot currently generally offer the terms set forth in the SGAT and brilliantly illustrates why the SGAT is deficient on its face.

2.2 No Available Fully Electronic Interfaces.

The SGAT is also deficient because nowhere in the SGAT does Pacific indicate when fully electronic access to OSS will be provided which will allow CLCs real-time access to Pacific's systems without manual intervention. Thus, the SGAT's own terms with regard to providing electronic OSS functions are totally inadequate. Under the SGAT, the parties are to negotiate detailed technical specifications for implementing fully electronic interfaces for OSS functions. SGAT, Attachment 11, Appendix A, Sections 1.3, 2.1.2, Exhibit 1. No deadlines have been set for finishing those negotiations. *Id.* Only after the specifications are hammered out will new entrants to the local market have access to Pacific's OSS functions. It is the Coalition's best estimate that this process will not be concluded until the end of 1997 at the earliest – more than 9 months after the date of Pacific's SGAT filing.

During the interim, however, Pacific continues to enjoy full access to its databases and systems. By denying CLCs full access to its SORD system, Pacific continues to act as gatekeeper to exclude and/or delay new entrants to the local California market.²²

²² Anticipating such anticompetitive behavior, the FCC has recognized that delayed access to OSS functionality would be particularly detrimental to competition, and has required that ILECs like Pacific be working to make OSS functions available as an unbundled network element, *in fully electronic form*, no later than January 1, 1997. *FCC Order* ¶¶ 520, 523, 525. There is no confidence among the CLCs at the current time that Pacific is now working on a release that will be in fully electronic form and fully satisfies CLC needs.

The undue discretion that the SGAT gives Pacific in deciding when to provide fully electronic OSS is unreasonable and discriminatory. Pacific fails to provide concrete dates as to when these systems will be fully implemented. Instead, it uses open-ended, vague language to maintain an unfair degree of flexibility in deciding when to implement these systems.

For example, the SGAT states, "CLC and Pacific agree to *best faith efforts* to adopt all Industry mechanized interface standards . . . on the *most timely mutually agreed upon* schedule." SGAT, Attachment 11, Appendix A, Sections 1.3, 2.1.2. Such ambiguous language is unworkable and deficient. Because full operational interfacing ultimately depends on whether Pacific agrees to it, Pacific is able to dictate the level of competition that it will tolerate. It is no mystery that Pacific would like to maintain its monopolistic stance as long as possible, and thus long delays are almost certain to occur. By contrast, CLCs are anxious to enter the local market and will have the incentive to work towards fully electronic interfaces. In sum, CLCs may be left out in the cold until Pacific decides to allow them inside.²³

²³ The SGAT seemingly attempts to provide clarity by stating, "'Detailed Specification Agreed to By Date' and 'Start Dates' will be the same as those made available to other CLCs or, upon dates thereafter, as mutually agreed by the Parties." SGAT, Attachment 11, Appendix A, Exhibit 1. This language, however, fails to provide the requisite specificity. To begin with, one CLC's availability date should not be dependent upon another CLC's availability date, particularly when the CLC are operating under completely different implementation schedules. Furthermore, the language "or, upon dates thereafter" arms Pacific with the ability to ignore the dates that other CLCs are operating under and dictate, itself, when OSS will be provided to each CLC.

Even Pacific admits that its current OSS offerings are not at the requisite level, and thus the SGAT must fail on its face.²⁴ The SGAT states: "CLC and PACIFIC agree that no interface will be represented as either generally available or as operational until end-to-end functionality testing, as agreed to in a Joint Implementation Agreement or other mutually acceptable document are completed to the satisfaction of both Parties." SGAT, Attachment 11, Appendix A, Section 3. Joint implementation is an issue that should have been resolved prior to the filing of the SGAT because the SGAT claims, upon its filing, to meet the requirements of Section 251. Clearly, the SGAT on its face, and in reality, does not set forth generally available terms and conditions. Thus, at best, the SGAT is completely premature.

The real-life impact of the vague language of the SGAT is that Pacific is offering no guarantees as to when OSS functions will be available at parity to its competitors by failing to agree to a timetable for electronic interface. Pacific is thus able to keep new entrants out of its market until such time

²⁴ In this respect, Pacific's SGAT is not unlike the one filed by US West in South Dakota. There, US WEST indicated in its SGAT that it did not intend to have electronic interfaces to offer operational support systems for any resold service other than basic business and basic residential until the second and third quarter of 1997. In response to this, inter alia, the Public Utilities Commission of the State of South Dakota unanimously rejected US WEST's SGAT on the grounds that U S West's SGAT "does not comply with the FCC's First Report and Order and Final Rules." In the Matter of the Filing by U S WEST Communication, Inc. of Its Statement of Generally Available Terms, TC96-179, Order Granting Motion for Summary Disapproval of US WEST's Statement of Generally Available Terms (December 19, 1996).

that it decides to comply with the law. The delay in Pacific's provision of electronic interfaces to permanent OSS systems capable of meeting the needs of the CLCs means that for the indefinite future, Pacific will have a far superior ordering system than its competitors. Carriers will be forced to employ manual procedures to order service, which will delay the processing of orders and greatly increase the number of errors in the ordering process. Only when Pacific is in compliance with Section 251 and 252(d) of the Act, should this Commission entertain approval of an SGAT. Until such time an SGAT filing is completely inappropriate, because Pacific cannot generally offer the requirements of Sections 251 and 252(d).

The complete inadequacy of Pacific's current interfaces is evidenced by the fact that the Commission is currently hearing complaints brought by AT&T, MCI and other CLCs regarding the problems associated with Pacific's inferior systems and interfaces.²⁵ In addition, the Commission has scheduled workshops on the OSS issue in the local exchange competition and OANAD proceedings partly based on its assumption that ILECs have not been sufficiently forthcoming in defining and implementing OSS required by

²⁵ The members of this Coalition hereby request that the Commission take official notice of the Complaints of MCI and AT&T against Pacific which detail the inadequacies of the current mechanized access to preordering, ordering, provisioning, and maintenance support made available by Pacific and the resulting harm to resale competition and consumers. See MCI and AT&T v. Pacific, Case Nos. C.96-12-026 and C.96-12-044.

CLCs.²⁶ Given that there remains much to be done before Pacific's OSS for CLCs is at parity with its own internal systems, Pacific's SGAT is clearly deficient with respect to OSS.

The overall impact of the lack of nondiscriminatory access to Pacific's OSS is devastating to resale competition. As set forth below, Coalition members such as MCI, AT&T, and others have routinely experienced significant delays and errors in resale order processing, provisioning and maintenance. The manual system currently employed by Pacific processes two orders to accomplish a resale migration, a disconnect and new connect order. This has resulted in some customers losing their dialtone altogether, losing vertical features, or being dropped from the 411 directory assistance database. The result is harm to customers, severely limits a CLC's ability to offer services, and does serious and lasting harm to the reseller's business reputation.

3. No Parity In Pre-Ordering.

Pacific's support for pre-ordering processes is wholly inadequate. The lack of fully electronic interfaces, which provide CLCs with parity, is manifested in many ways. One example is in the area of customer service records ("CSRs"), which are critical to resale. The SGAT states that the

²⁶ See workshops regarding operational support systems consolidated in both the Local Exchange Competition Proceeding, R.95-04-043 and I.95-04-044, and in the OANAD Proceeding, R.93-04-033 and I.93-04-002.

parties should come to agreement on when CLCs will have full electronic access to CSRs. However, both the date that the specifications must be complete and the date that they will actually be implemented are left open. SGAT, Attachment 11, Appendix A, Exhibit 1.

When a CLC takes an order for a new customer, it is required to package that information in the exact same customer information format used in Pacific's CSRs; if it does not, the service order will be rejected. Because electronic access to CSRs in Pacific's systems is not yet available, CLCs must rely on the manual exchange of CSRs, which places them at a significant disadvantage. Under manual exchange, CLCs must employ the following arduous process: the CLC faxes a request for the customer's CSR to Pacific; Pacific manually accesses the record and prints it out; Pacific then faxes it back to the CLC. Only then can the CLC accurately take the order.

As discussed below in Section V.F., below, another example of the current discriminatory and unjust effects of the lack of fully electronic interfaces involves access to phone numbers. To process a new order for resale service, a CLC must have access to information about available phone numbers. Currently, a CLC must call the Pacific Local Interconnection Service Center ("LISC") to get such information. Pacific's current staffing of the LISC is woefully inadequate, causing CLCs to encounter Pacific's

voicemail instead of a live representative and/or spend lengthy periods of time on hold.

A CLC also needs access to information concerning the availability of features from Pacific's central offices. Rather than being able to access such information directly through electronic interfaces, CLCs must rely on a feature availability matrix provided by Pacific each month via a batch transfer. This information is often incomplete or inaccurate, thereby further disadvantaging CLCs. Pacific also simply refuses to make available some critical pre-ordering information, such as information pertaining to the customer's current directory listings and Preferred Interexchange Carriers (or "PICs") available at a particular switch.²⁷

The impact of Pacific's manual system which Pacific currently offers, which would not be changed by the SGAT, is to impose unnecessary delay, error, and expense on new entrants seeking to compete in California's local market. The manual system unnecessarily lengthens order processing timeframes. The turnaround objective for a CLC requesting a CSR is 8 hours. Currently, the turnaround is 2-5 business days and longer.²⁸ On the other hand, Pacific can have the same information in a matter of seconds.

²⁷ Pacific's refusal to provide pre-ordering information is hidden behind OSS "technical difficulties." In reality, the refusal actually illustrates Pacific's policy of not providing parity to its competitors.

²⁸ The SGAT specifies that requests for CSRs will be sent to the requesting CLC "within 4 hours of [Pacific] receiving the request and appropriate LOA [Letter of Authorization]." SGAT, Attachment 17, Section A, metric 6.

By forcing CLCs to expend extra time and energy, Pacific has erected an effective barrier to local market entry and expansion through unfair terms and conditions. All of which would remain, because the SGAT does not generally offer fully electronic interfaces at this time. By requiring provisioning of service to be dependent on a system that is seriously deficient and that it, and it alone, controls, Pacific has seriously tilted the competitive playing field in its favor. There is currently a glaring lack of parity for CLCs, which remains unsolved by the SGAT.

4. No Parity In Provisioning.

Inadequate access to critical pre-ordering processes and information is not the only problem CLCs operating under the proposed SGAT will face in processing an order with Pacific. Pacific has dictated in the SGAT that CLCs must use an interim electronic interface known as Network Data Mover ("NDM") for transferring and receiving all Service Orders and related information. SGAT, Attachment 5, Section 5.1.1.²⁹ This is only an interim solution. As Pacific admits, there is no generally available long term electronic interface yet. SGAT, Attachment 5, Section 5.1.2.

The NDM system is a system over which CLCs have no control. This system only intermittently transmits orders to Pacific in batches. Although

²⁹ Members of the Coalition such as AT&T and MCI digitally transmit a completed order to Pacific using Pacific's NDM. *See, for example, AT&T Interconnection Agreement*, Attachment 11, Appendix C, Section 1.4. Use of the NDM, however, does not solve any problems but instead creates new ones.

Pacific receives the order electronically, it prints the order and a Pacific employee re-types the order into SORD, Pacific's ordering system. If there is a typing error on the part of any operator, Pacific will then transmit back to the CLC a rejection message, and the ordering process will have to be repeated.

The manual workaround to address this problem often requires agent-to-agent resolution on reject notices and adds additional delay to the process of completing a CLC service order request. This is exacerbated by the difficulty of communicating with the insufficiently staffed LISC. Many retail services for business customers - including trunks, Centrex, and ISDN - cannot even be ordered over NDM, yet, but must still be faxed to Pacific. Business simply cannot be transacted in satisfactory volume or with confidence in satisfactory accuracy when orders must be faxed. Finally, this largely manual process has resulted in separation of the disconnect and new connect orders that Pacific processes to migrate a customer, leading to a customer's loss of dialtone and/or listing in the directory assistance database.

In stark contrast, Pacific's internal ordering system is fully electronic. Pacific employees have real-time access to the ordering system, and if there is an ordering error, the customer representative knows immediately and can correct it on the spot. Additionally, Pacific has failed to adequately resource

its Local Interconnection Service Center (LISC), resulting in Pacific having a very limited capacity to process resale orders.³⁰

It is clear that Pacific is not meeting its fundamental duty "to not impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services." TA96 § 251(b)(1). Pacific's inability to provide an on-line computerized service ordering and monitoring process cripples the ability of any CLC to be reactive to potential customer demands, customer service requirements and complaints. And while Pacific is, in essence, dictating the maximum level of demand for reseller services and forcing CLCs to provide poor service to their customers, it maintains the capability to process all its own orders and solve its own customer problems without undue delays. This situation is perpetuated by the explicit terms of the SGAT, not solved.

5. No Parity In Timely Order Status.

Under the terms of the SGAT, Pacific is committed to providing the following notices to CLCs:

- * firm order confirmation ("FOC") - less than 4 hours;
- * notice of rejection of an order - within 4 hours of receipt of order;

³⁰ For example for AT&T, Pacific can only process a minuscule 400 to 500 orders for per business day. Pacific refuses to acknowledge its capacity per day for the entire industry. This woefully small number can be put in perspective. Given that there are currently roughly 16 million access lines in Pacific's California territory, it would take AT&T 2,400 business days (roughly *9 and a half years*) to have enough orders processed to take 7.5% of Pacific's market share. And that does not even account for the fact that Pacific's local access lines in California are growing by 55,000 per *month*. Thus, Pacific's own inadequate ordering processes in effect "gate" demand for its competitors' resale services.

* notice of completions -- within 24 hours of actual completion.

See generally SGAT, Attachment 5, Sections 5.6.1 et seq.; Attachment 17.

If these time commitments, which are longer than those Pacific itself enjoys, are not met, there is a clear lack of parity.

5.1 Rejection Notices.

As CLCs enter resale, customers are migrating from Pacific to the CLCs. Part of the resale process includes Pacific's handling of the migration order placed by the CLCs. To be useful to CLCs, notices indicating that Pacific has rejected the service order sent to it by the CLC ("rejection notices") should be issued as soon as possible, and in all events within four hours as set forth in Pacific's SGAT. SGAT, Attachment 17. Yet, Pacific's rejection notices come back to members of the Coalition 24 to 48 hours and more after the original order was electronically sent.³¹ Based on this experience, it is highly unlikely that Pacific will be able to comply with the terms of its own SGAT.

5.2 FOCs.

As further evidence of Pacific's inability to meet its commitments set forth in the SGAT, Pacific is issuing FOCs to AT&T and MCI in a timely

³¹ Pursuant to their respective interconnection agreements, when Pacific receives an order from AT&T or MCI to provide local service to an AT&T or MCI customer, it is supposed to provide to AT&T or MCI, *within four hours*, a FOC to confirm that the order is being processed. *See e.g. AT&T Interconnection Agreement*, Attachment 17, page 3. Pacific is not doing so. Thus, under the system that will be in place for the next year, AT&T and MCI will have to manually check for FOCs *every two hours of every single business day*.